

Title 8. California Code of Regulations
Division 1. Department of Industrial Relations
Chapter 6. Division of Labor Standards Enforcement
Subchapter 12. Travel Expense Reimbursements
Sections 13700 through 13706

13700. Definitions.

- (a) Indemnify. The amount that fully compensates each employee for what the employee has necessarily expended in the performance of work for the employer. An employer and employee may not agree to less than full indemnification for all necessarily incurred expenses.
- (b) Mileage Reimbursement. The sum paid to an employee to indemnify the employee for the necessary costs incurred in operating vehicles provided by the employee for work, excluding the mileage driven commuting from home to work.
- (c) Employer Provided Vehicle Costs. The costs necessarily incurred by an employee for a vehicle provided to the employee by the employer for use in connection with the employee's work.
- (d) Per Diem Expenses. The daily costs necessarily incurred by an employee who must travel away from home for work including but not limited to meals, lodging, and incidental expenses.
- (e) Other Travel Expenses. The costs of tolls, parking, rental vehicles, laundry, cleaning and pressing of clothing, mailing, telephone, shipping, transportation, and similar business related expenses, incurred by employees in connection with business related travel by employees.

Authority: Sections 53, 54, 55, 59, 95, 96(a), 98(a), 98.8, Labor Code

Reference: Sections 2802, 2804 Labor Code.

13701. Mileage Reimbursement:

- (a) The Internal Revenue Service standard vehicle mileage reimbursement rate, as

published annually in Internal Revenue Service Publication 463 Entertainment, Gift, and Car Expense, is presumed to be a reasonable rate for reimbursement of mileage to employees for use of their personally provided vehicles for work for miles driven during the effective period of each such Internal Revenue Service rate.

(b) Any employer who believes that a specific employee's mileage reimbursement rate is less than the applicable Internal Revenue Service rate, as published annually in Internal Revenue Service Publication 463, Entertainment, Gift and Car Expense, has the burden of proving the necessarily incurred actual expenses of the employee for the use of his/her vehicle. To meet this burden an employer must keep full, complete and accurate records of all costs associated with each vehicle used by the employee for which indemnification is required. A period of not less than one calendar year immediately preceding the computation shall be used to calculate the employee's total expenses necessarily incurred in the operation of each such vehicle. The burden of proving the employee's actual expenses shall not be shifted to the employee under any circumstances arising under this subsection.

(c) Any employee who believes that the reimbursement rate for his/her actual necessarily incurred expense is greater than the applicable Internal Revenue Service rate, has the burden of proving his/her actual necessarily incurred expenses for the use of his/her vehicle. To meet this burden, the employee must keep full, complete, and accurate records of all costs associated with each vehicle used by the employee for which indemnification is required. A period of not less than one calendar year immediately preceding the computation shall be used to calculate the employee's total expense necessarily incurred in the operation of the vehicle. The burden of proving the employee's actual expenses shall not be shifted to the employer under any circumstances arising under this subsection.

(d) The following expense items shall be included in determining the cost of operation of an employee provided vehicle: gas purchases, oil purchases, lease payments, garage rent,

repairs, tires, vehicle depreciation for the relevant period of time, Department of Motor Vehicle registration fees, the cost to insure the vehicle, and licenses.

(e) Where an employee uses more than one vehicle for work, the costs of operating each vehicle must be ascertained and the costs assessed proportionally, on a percentage basis, according to the use for work.

(f) Employers shall keep daily mileage records of the number of miles driven for work by employees in their personal vehicles. In complying with this obligation, an employer may require employees to record and submit the necessary mileage information. These records shall be produced in ink or other indelible form, properly dated, showing the day, month and year, and shall be kept and maintained on file by the employer for at least three (3) years at the place of employment or a central location within the State of California. Each employee's records shall be available for inspection by the employee and the Division of Labor Standards Enforcement upon reasonable request.

(g) Employers shall compute and pay mileage reimbursement when wages are paid, or at least once per calendar month as determined by the employer. All such payments must be made not later than the end of the calendar month following the calendar month in which the expenses were incurred, unless the employee fails to provide the employer with the records of the number of miles driven for the reimbursement period, in which case, the reimbursement must be made no later than the month following the month in which the employee provides the employer with the records for the mileage claimed.

(h) At the time of payment for mileage reimbursement, the employer shall issue as a written detachable part of the check, an itemized statement in writing, explaining the computation of the mileage reimbursement, including the beginning and end of the time period for which the mileage reimbursement check is being issued, the rate of reimbursement used, and the number of miles being reimbursed. In the alternative, the employer may, along with the mileage expense payment, return a copy of the employee's mileage reimbursement claim, indicating thereon which mileage claims are being paid,

which are being rejected, and any changes in the specific amounts paid for each mileage reimbursement sought. If the employer reimburses mileage in the same check as the payment of wages, the amount of mileage reimbursement shall be listed separately and none of the mileage reimbursement amount shall be included in the amount paid as wages for any purpose.

(i) No deductions may be taken from any amounts paid to employees as mileage reimbursements

Authority: Sections 53, 54, 55, 59, 95, 96(a), 98(a), 98.8, Labor Code

Reference: Sections 2802, 2804 Labor Code

13702. Employer Provided Vehicle Costs:

(a) Every Employer shall pay all expenses necessarily incurred by its employees when the employer provides a vehicle to an employee to be used in connection with work. The expenses that shall be borne by the employer include, but are not limited to gas purchases, oil purchases, lease or purchase payments, garage rent, repairs, tires, vehicle depreciation for the relevant period of time, Department of Motor Vehicle registration fees and licenses, and the cost to insure the vehicle.

(b)) Employers shall keep and maintain all records in connection with each request for employer provided vehicle costs reimbursement from each employee, and a record showing each item of each such request for reimbursement paid by the employer. These records shall be produced in ink or other indelible form, properly dated, showing the day, month and year, and shall be kept and maintained on file by the employer for at least three (3) years at the place of employment or a central location within the State of California. Each employee's records shall be available for inspection by the employee and the Division of Labor Standards Enforcement upon reasonable request.

(g) Employers shall compute and pay employer provided vehicle costs reimbursement

when wages are paid, or at least once per calendar month as determined by the employer. All such payments must be made not later than the end of the calendar month following the calendar month in which the expenses were incurred, unless the employee fails to provide the employer with the information and/or records necessary for calculating the amount of reimbursement, in which case, the reimbursement must be made no later than the month following the month in which the employee provides the employer with the necessary information and/or records.

(h) At the time of payment for employer provided vehicle costs reimbursement, the employer shall issue as a written detachable part of the check, an itemized statement in writing, explaining the computation of the reimbursement, including the beginning and end of the time period for which the reimbursement check is being issued, and the specific items paid. In the alternative, the employer may, along with the expense payment, return a copy of the employee's reimbursement claim indicating thereon which items are being paid, which are being rejected, and any changes in the specific sums paid for each item of reimbursement sought. If the employer reimburses employer provided vehicle costs in the same check as the payment of wages, the amount of employer provided vehicle costs reimbursement shall be listed separately and none of the employer provided vehicle costs reimbursement amount shall be included in the amount paid as wages for any purpose.

(i) No deductions may be taken from any amounts paid to employees as employer provided vehicle costs reimbursement.

Authority: Sections 53, 54, 55, 59, 95, 96(a), 98(a), 98.8, Labor Code

Reference: Sections 2802, 2804 Labor Code

13703. Payment of Per Diem Expenses.

(a) Meals. Every employer shall reimburse each employee for the purchase of meals

when the employer requires the employee to travel away from home on business. The employee shall be reimbursed for the necessarily incurred costs of regular meals, breakfast, lunch and dinner, either by the actual cost method or by the standard meal and incidental expense allowance method at the rate approved by the Internal Revenue Service as published annually in Internal Revenue Service Publication 1542.

(b) Incidental Expenses. Every employer shall reimburse each employee for incidental expenses necessarily incurred when traveling away from home on business. These expenses include fees and tips given to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses and others on ships, and hotel servants in foreign countries. They also include transportation between places where meals are taken and mailing costs associated with filing travel vouchers and payment of employer-sponsored charge card billings. Incidental expenses do not include expenses for laundry, cleaning and pressing of clothing, lodging taxes, or the costs of telegrams or telephone calls. Such excluded costs may qualify as covered reimbursable costs if expended in connection with travel as “Other Travel Costs” under section 13704 below.

(c) Lodging. Every employer shall reimburse each employee for the cost of a hotel room for each night that an employer requires an employee to travel away from home. The employee shall be reimbursed for the necessarily incurred costs of lodging either by the actual cost of the hotel room, or by using the lodging allowance rate approved by the Internal Revenue Service for the location of the employee’s lodging as published annually in Internal Revenue Service Publication 1542.

(d) Per Diem Rate. In lieu of reimbursing the actual cost of meals, lodging and incidental expenses as set forth in (a), (b), and (c) herein above, an employer may elect to pay the lump sum per diem rate set by the Internal Revenue Service for the location to which the employee must travel at the rate approved by the Internal Revenue Service as published annually in Internal Revenue Service Publication 1542. Where the employer elects to pay the applicable IRS lump sum per diem rate it is not required that the

employee be separately reimbursed for meals, lodging, and incidental expenses.

(e) Employer Policies Regarding Reimbursement of Per Diem Expenses. Every employer shall notify each employee who must travel overnight for work, of any policies of the employer regarding reimbursement for per diem expenses in advance of any such travel. No such employer policy can be in conflict with these regulations.

(f) If an employer fails to notify an employee, in writing, prior to the travel date, of the employer's maximum allowance determined to be reasonably necessary for reimbursement for per diem expenses, the employer shall reimburse the actual expenses incurred by the employee for such expenses.

(g) An employer who reimburses using the actual cost method to reimburse an employee for any expenses contained in (a) through (c) hereinabove, may require the employee to provide a receipt for each expense for which reimbursement is sought by an employee.

(h) Employers shall keep and maintain all of the records in connection with each request for per diem reimbursement from each employee, and a record showing each item of each such request for reimbursement paid by the employer. These records shall be produced in ink or other indelible form, properly dated, showing the day, month and year, and shall be kept on file by the employer for at least three (3) years at the place of employment or a central location within the State of California. Each employee's records shall be available for inspection by the employee and the Division of Labor Standards Enforcement upon reasonable request.

(i) Employers shall compute and pay per diem reimbursement when wages are paid, or at least once per calendar month as determined by the employer. All such payments must be made not later than the end of the calendar month following the calendar month in which the expenses were incurred, unless the employee fails to provide the employer with the information and/or records necessary for calculating the amount of reimbursement, in which case, the reimbursement must be made no later than the month following the month in which the employee provides the employer with the necessary information

and/or records.

(j) At the time of payment for per diem reimbursement, the employer shall issue as a written detachable part of the check, an itemized statement in writing explaining the computation of the per diem reimbursement, including the beginning and end of the time period for which the per diem reimbursement check is being issued, the rate of reimbursement used, and the specific items paid. In the alternative, the employer may, along with the per diem payment, return a copy of the employee's reimbursement claim, indicating thereon which items are being paid, which are being rejected, and any changes in the specific sums paid for each item of per diem reimbursement sought. If the employer includes the itemized statement for reimbursement for per diem expenses in the same check as the payment of wages, the amount of per diem reimbursement shall be listed separately and none of the per diem reimbursement amount shall be included in the amount paid as wages for any purpose.

(k) No deductions may be taken from any amounts paid to employees as per diem reimbursement.

Authority: Sections 53, 54, 55, 59, 95, 96(a), 98(a), 98.8, Labor Code

Reference: Sections 2802, 2804 Labor Code

13704. Other Travel Expenses

(a) Tolls. Every employer shall reimburse each employee for the actual cost of every necessarily incurred toll paid by the employee when driving any vehicle for work.

(b) Parking. Every employer shall reimburse each employee for the actual cost of necessarily incurred parking charges incurred by the employee when driving any vehicle for work. Parking charges incurred by employees in connection with their normal commute to and from regular work location are not included in required reimbursable costs.

(c) Rental Vehicles. Every employer shall reimburse each employee for the actual necessarily incurred cost of renting a vehicle for work. An employer may impose a reasonable cap on the price of a rental vehicle, which cannot be below the actual cost of renting a vehicle in the location where the employee must initiate the rental.

(d) Laundry, Cleaning and Pressing of Clothing. Every employer shall reimburse each employee for the actual necessary costs of laundry, cleaning and pressing of clothing incurred in connection with covered employee travel.

(e) Mailing. Every employer shall reimburse each employee for the actual necessarily incurred costs of mailing associated with filing travel vouchers and payment of employer-sponsored charge card billings.

(f) Telephone. Every employer shall reimburse each employee for the actual necessarily incurred costs of business telephone calls made while traveling for work. Such costs include business communications by fax machine or other communications devices such as email.

(g) Shipping. Every employer shall reimburse each employee for the actual necessarily incurred costs of shipping baggage and sample or display material between regular and temporary work locations to which the employee must travel for business reasons.

(h) Transportation. Every employer shall reimburse each employee for the cost of transportation necessarily incurred in travel by air, train, bus, car or boat between the employee's home business location and the away from home location where work is performed. Transportation expenses must be paid directly by the employer or reimbursed to the employee between the employee's origination point and destination where work is to be performed and shall include the costs of travel from and to the employee's home, place of business or lodging, and the airport

(i) Employer Policies Regarding Reimbursement of Other Travel Expenses. Every employer shall notify each employee who must travel away from home or overnight for work of any policies of the employer regarding reimbursement for business expenses in

advance of any such travel. No such employer policy can be in conflict with these regulations.

(j) If an employer fails to notify an employee, in writing, prior to the travel date of the employer's maximum allowance determined to be reasonably necessary for reimbursement for other travel expenses, the employer shall reimburse the actual expenses necessarily incurred by the employee.

(k) An employer may require the employee to provide a receipt for each expense for which reimbursement is sought by an employee in subsections (a) through (h) above.

(l) Employers shall keep all of the records in connection with each request for per diem reimbursement from each employee, and a record showing each item of each such request for reimbursement paid by the employer. These records shall be produced in ink or other indelible form, properly dated, showing the day, month and year, and shall be kept on file by the employer for at least three (3) years at the place of employment or a central location within the State of California. Each employee's records shall be available for inspection by the employee and the Division of Labor Standards Enforcement upon reasonable request.

(m) Employers shall compute and pay other travel expenses when wages are paid, or at least once per calendar month as determined by the employer. All such payments must be made not later than the end of the calendar month following the calendar month in which the expenses were incurred, unless the employee fails to provide the employer with the information and/or records necessary for calculating the amount of reimbursement, in which case, the reimbursement must be made no later than the month following the month in which the employee provides the employer with the necessary information and/or records.

(n) At the time of payment for other travel expenses, the employer shall issue, as a written detachable part of the check, an itemized statement in writing explaining the computation of the other travel expenses reimbursement, including the beginning and end

of the time period for which the reimbursement check is being issued, and the specific items paid. In the alternative, the employer may, along with the expense payment, return a copy of the employee's reimbursement claim indicating thereon, which items are being paid, which are being rejected, and any changes in the specific sums paid for each item of reimbursement sought. If the employer reimburses other travel expenses in the same check as the payment of wages, the amount of other travel expense reimbursement shall be listed separately and none of the other travel expense reimbursement amount shall be included in the amount paid as wages for any purpose.

(o) No deductions may be taken from any amounts paid to employees as other travel expense reimbursements.

Authority: Sections 53, 54, 55, 59, 95, 96(a), 98(a), 98.8, Labor Code

Reference: Sections 2802, 2804 Labor Code

13705. Attorney Fees and Costs for the Administrative Process

(a) For purpose of Labor Code section 2802(c), an employee shall be entitled to an award of reasonable costs including attorney fees necessarily incurred in enforcing any rights guaranteed by Section 2802.

(b) Attorney fees recoverable under Labor Code section 2802(c) for legal work performed during the administrative process shall be based on the reasonable hours expended on the case while pending before the Division of Labor Standards Enforcement, multiplied by a reasonable hourly rate for the legal work performed. A reasonable hourly rate is the prevailing hourly rate charged by private attorneys in the geographic area with similar experience to that of the attorney(s) making the application for fees.

(c) Costs recoverable under Labor Code section 2802(c) shall include the costs of preparing for and proceeding with the administrative hearing, including but not limited to

witness fees, mileage fees, and the costs associated with service of process.

(d) At a hearing held pursuant to Labor Code section 98(a), the employee or his or her attorney shall submit evidence of reasonable attorney fees and costs sought to be recovered under Labor Code section 2802(c). Such evidence may be in the form of a declaration signed by the attorney(s) under penalty of perjury, setting forth an itemization of hours worked on the case, the basis for the hourly rate(s) claimed, and costs incurred. The other parties at the hearing shall have the right to present any contrary evidence and to cross-examine the employee or his or her attorney(s) on these matters.

Authority: Sections 53, 54, 55, 59, 95, 96(a), 98(a), 98.8, Labor Code

Reference: Section 2802, 2804 Labor Code

13706. Remedies

(a) Administrative Claim under Labor Code Sections 96 - 98(a), and 2802(b). An employee may elect to file an individual wage claim for reimbursement of expenses and/or costs and reasonable attorney fees incurred with the Division of Labor Standards Enforcement. This claim will be processed under the procedures set forth in Labor Code Section 98, et seq.

(b) Division of Labor Standards Enforcement Lawsuit. The Division of Labor Standards Enforcement may file an action to recover unreimbursed expenses in a civil action pursuant to Labor Code Section 95(a) and/or 98.3.

(c) Private Enforcement. An employee may elect to enforce the rights contained in Labor Code Section 2802 through a private civil action including the recovery of costs and reasonable attorney fees incurred in litigation.

Authority: Sections 53, 54, 55, 59, 95, 96(a), 98(a), 98.8, Labor Code

Reference: Section 2802, 2804 Labor Code